

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

SEAN D. RIES, JOHN R. MURRAY,
PHILIP C. HENRY, and others similarly
situated,

Plaintiffs,

v.

ALLMERICA FINANCIAL
CORPORATION, ALLMERICA
FINANCIAL LIFE INSURANCE AND
ANNUITY COMPANY, and
FREDERICK H. EPPINGER, JR.,

Defendants.

Civil Action No. 4:04-cv-40179(FDS)

**DEFENDANTS' RESPONSE TO PLAINTIFFS' REQUEST
FOR ORAL ARGUMENT ON DEFENDANTS' MOTION TO
DISMISS AND PLAINTIFFS' RENEWED MOTION TO REMAND**

Defendants Allmerica Financial Corporation, Allmerica Financial Life Insurance and Annuity Company (collectively "Allmerica"), and Frederick H. Eppinger, Jr. submit this brief response to plaintiffs' request for oral argument on defendants' Motion to Dismiss and plaintiffs' Renewed Motion to Remand.

Defendants would be pleased to engage in oral argument if it will assist the Court.

However, defendants submit that oral argument may not be necessary because:

- (1) The Renewed Motion to Remand is an attempt by plaintiffs to relitigate an issue that the Court resolved on October 6, 2004, and neither the allegations of the Complaint nor the applicable law have changed since the Court's decision;
- (2) Even if the Court had not already ruled, the issue plaintiffs seek to relitigate -- removal and preemption under the Securities Litigation Uniform Standards Act ("SLUSA") -- is evaluated on the four corners of plaintiffs' Complaint; and

- (3) There is no need for argument on defendants' Motion to Dismiss because other than SLUSA, plaintiffs have not addressed (much less opposed) any of the arguments upon which it is based.

Respectfully Submitted,

ALLMERICA FINANCIAL CORPORATION,
ALLMERICA FINANCIAL LIFE INSURANCE
AND ANNUITY CO., and FREDERICK H.
EPPINGER, JR.

By their attorneys,

/s/ Eric D. Levin

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Dated: December 27, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served on this 27th day of December, 2004 on the following counsel of record:

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